

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALICE FAY HOLLEY,

Plaintiff,

**REPORT AND RECOMMENDATION
20 CV 00970 (RPK)(LB)**

-against-

FEIN, SUCH & CRANE LLP,
REFEREE GREGORY CERCHIONE,
FRANCIS REAL ESTATE BUYER-856
PROSPECT PL. HOLDINGS LLC, U.S.
BANK TRUST, N.A., BROOKSTONE
HOLDING LLC, and DOES 1-10.

Defendants.

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BLOOM, United States Magistrate Judge:

Plaintiff commenced this *pro se* case on February 21, 2020 based on a prior state court foreclosure action and the loan at issue in that foreclosure sale. ECF No. 1. The summonses to effect service on defendants were issued that day. ECF No. 2. The Federal Rules of Civil Procedure provide that:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). On March 12, 2020, the Court ordered plaintiff to serve defendants with the summons and complaint by June 10, 2020. ECF No. 6. Defendant U.S. Bank Trust, N.A. (“U.S. Bank”) was served via certified mail on March 5, 2020, ECF No. 4, and U.S. Bank filed its motion to dismiss for failure to state a claim on April 12, 2020. ECF No. 7. As of the date of this Report, the Court’s record does not reflect that plaintiff served any of the other defendants. Because plaintiff has failed to file proof of service or show good cause why service was not timely effected

on defendants Fein, Such, & Crane LLP, Referee Gregory Cerchione, Francis Real Estate Buyer-856 Prospect Pl Holdings LLC, Brookstone Holding LLC, and Does 1-10, it is respectfully recommended that plaintiff's action should be dismissed without prejudice against those defendants pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the fourteen-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physician's Health Plan, Inc., 293 F.3d 42 (2d Cir. 2002); Small v. Sec'y of Health & Human Servs., 892 F.2d 15 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

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LOIS BLOOM
United States Magistrate Judge

Dated: November 5, 2020
Brooklyn, New York